

REMARKS

This Amendment is in response to the non-final Office Action of January 16, 2009.

Regarding the traversal of the restriction requirement pertaining to the Group II claims, the Examiner found the applicant's traversal to be not persuasive because the applicant has claimed a mobile station to execute the call diversion process claimed, within the mobile station in claims 12-17 and has also claimed a mobile switching center to execute the call diversion process claimed within the mobile switching center (claims 18-23). The Examiner states that the applicant is claiming two different inventions within the application and is therefore subject to restriction. The requirement was then made final. The applicant requests reconsideration of the final determination with respect to the Group II claims since the mobile station as claimed in claims 12-17 has basically the same limitations as the other related claims and it is so closely related that it would not be an extra burden of any significance for the Examiner to examine these Group II claims at the same time. See MPEP § 603 where it states that if the search and examination of all the claims in an application can be made without a serious burden, the Examiner must examine them on the merits, even though they include claims to independent or distinct inventions. The Examiner has not explained why there would be a serious burden (see MPEP 808) except to indicate a slight difference in two of the subclasses 417/561 and 455/550.1. This is viewed by applicant as not a serious burden.

Regarding the 35 U.S.C. § 112, first paragraph, rejection of claims 24-26, the specification has been amended at page 10, line 4 to include the precise words "computer readable medium" as describing the "specific memory unit" such as the memory unit 209 of Fig. 2 of the present disclosure. Withdrawal of the 35 U.S.C. § 112, first paragraph, rejection of claims 24-26 is requested.

Regarding the 35 U.S.C. § 112, second paragraph, rejection of claim 8, it has been amended to remove the software elements and to change its dependency from claim 4 to claim 1. Claim 8 is proper under the infringement test of MPEP § 608.04n. Withdrawal of the rejection of claim 8 is requested.

Regarding the 35 U.S.C. § 101 rejection of claims 8 and 24-26, the phrase "software elements" has been removed from claim 8 and the specification has been amended

to show what the claimed “computer readable storage medium” entails in the specification. Withdrawal of the 35 U.S.C. § 101 rejection of claims 8 and 24-26 is requested.

Regarding the 35 U.S.C. § 102(e) rejection of claims 1-2, 4, 6-8 and 23 as being anticipated by *Reding et al* (U.S. Patent Publication No. 2004/0156491), the Examiner points with particularity to numbered paragraph 0038 on page 3, numbered paragraphs 0114-0116 on page 10 and paragraph 0121 on page 10 of *Reding et al*. The cited paragraphs show a disposition list that specifies that calls are to be forwarded to a particular number (“forward-to-number”) such as for example, to a mobile phone. This may be done by sending an instruction to forward the call to a network entity which may then instruct another network entity to forward the call to a forward-to-number, i.e., to the mobile phone. The user may elect to only forward the call if the called number is not answered within a user specified number of rings.

In paragraph 0121 on page 10 of the *Reding et al* reference, the user may specify both a primary and a secondary handling procedure for calls, such that the secondary handling procedure is implemented if for example the primary handling procedure cannot be completed or some other criteria is met, such as, for example, user specified criteria. For example, the user may desire to have calls to their home phone from a particular contact ring to the home phone, but if the home phone is busy or not answered within a specific number of rings, then forward the call to the user’s cell phone. The user may also be able to schedule these primary and secondary handling procedures.

This disclosure by *Reding et al* does not anticipate the claims rejected on this ground. Although the claimed invention does indeed involve a primary and secondary handling procedure, and it may indeed be user defined (although not limited thereto), the crucial limitation from the rejected claims that is missing from the *Reding et al* disclosure is for the case where the data transmitting device is identified as other than the transmitting device from which there is defined a call divert command to the receiving mobile station. To the contrary, in the passages cited by the Examiner, the transmitting of the data further is carried out in both cases by defined call divert commands which have no relation to a case where the data transmitting device is identified as other than the transmitting device from which there is defined a call divert command to the receiving mobile station. In other words, in the claimed invention, in order for the data to be received, the data transmitting device has to be identified as a transmitting device from which there is a defined call divert command to the receiving mobile station. In case there is not such a defined call divert command to the

receiving mobile station, the data is transmitted further. In the passages cited by the Examiner, both the primary and secondary handling procedures are defined.

In the presently claimed invention, if the call divert command is not defined, then it is transmitted further. On the other hand, if there is a defined call divert command, then the mobile station receives the data from the transmitting device from which there is the defined call divert command to the receiving mobile station.

Thus, the presently claimed invention is quite different from that disclosed by *Reding et al* which defines by specifying both a primary and a secondary handling procedure for calls for instance with respect to a particular user's preferences such as having a particular contact's calls to the user's home phone be diverted to the cell phone if the home phone is busy or not answered within a specific number of rings.

Withdrawal of the 35 U.S.C. § 102(e) rejection of claims 1-2, 4, 6-8 and 23 is requested.

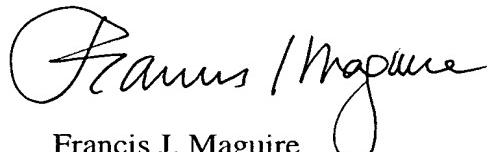
Regarding the 35 U.S.C. § 103 rejection of claims 9-11, 18-22 and 24-26, these depend from the rejected independent claims and are patentable for at least the same reasons as given above in applicant overcoming the novelty rejection thereof. Withdrawal of the obviousness rejection of claims 9-11, 18-22 and 24-26 is requested.

Regarding the obviousness rejection of claim 3, it depends from claim 1 and is patentable for at least the same reasons as given above in applicant overcoming the rejection of claim 1 on novelty grounds. Withdrawal of the obviousness rejection of claim 3 is requested.

Regarding claims 5 and 19 rejected for obviousness, these depend from claim 4 and are at least patentable for the same reasons as given above in applicant overcoming the novelty rejection of claim 4. Withdrawal of the obviousness rejection of claims 5 and 19 is requested.

The objections and rejections of the Office Action of January 16, 2009, having been obviated by amendment or shown to be inapplicable, withdrawal thereof is requested and passage of claims 1-26 to issue is solicited.

Respectfully submitted,



Francis J. Maguire
Attorney for the Applicant
Registration No. 31,391

FJM/mo
WARE, FRESSOLA, VAN DER SLUYS
& ADOLPHSON LLP
755 Main Street, P.O. Box 224
Monroe, Connecticut 06468
(203) 261-1234